

# Recommended revisions of the Wallsburg Town Development Code to the Wallsburg Town Council by the Wallsburg Town Planning Commission February 20, 2024

## **4.5. REQUIRED PERMITS**

### **4.5.1. ZONING AND BUILDING PERMITS**

~~Construction, alteration, repair, or removal of any building or structure or any part thereof, as provided for or as restricted in this Code and the Uniform Building Code, shall not be commenced except upon clearance by the Town for compliance with this Code and issuance of a building permit.~~

All structures exceeding 200 square feet require a permit. Single-story, detached accessory structures that are under 200 square feet do not require a permit. If you are building a structure under the square foot minimum, you should still check with the Wallsburg Town Planning Commission to verify that what you want to build will meet the setback requirements. Also, decks that are under the minimum square footage requirement but are 30 inches or more off the ground will require a permit. If you are unsure if the structure you are building requires a permit, please contact the Wallsburg Town Planning Commission to verify.

## **CHAPTER 1 REVISIONS:**

### **1.2 Authority, Legislative Intent, and Statement of Purpose**

3. Enhance economic resources and opportunities by encouraging commercial and/or institutional development which is compatible with the ~~rural~~ (agricultural) residential nature of the town.

### **1.3 Conflict With Other Laws or Ordinances**

The provisions of this Code are in addition to all other Town ordinances, (add Wasatch County codes), laws of the State of Utah and United States, and applicable common law. This Code shall not supersede any private land use regulations in deeds or covenants which are more restrictive than this Code. Whenever a conflict exists, the more restrictive provision shall apply to the extent allowed by law.

### **1.7 Creation of Land Use Districts and Zone Map**

3. Where the district lines are intended to follow natural land contours, such as the ridge tops, hillsides or waterways, the line shall be determined at the point at which the general slope of the land changes ~~fifteen (15) percent~~ (twenty (20) percent) in grade or in the case of waterways, the average centerline of the waterway. In the event of a dispute as to the location of the change in grade, the point shall be fixed with reference to topographic data submitted to the Town. Where land of less than ~~fifteen (15) percent~~ (twenty (20) percent) slope is surrounded by land of ~~fifteen (15) percent~~ (twenty (20) percent) or greater slope, the Planning Commission may entertain an application to rezone the land of less than ~~fifteen (15) percent~~ (twenty (20) percent) slope to a suitable residential use if the Town Staff determines that the land is adequately accessible and not within a sensitive lands overlay zone or designation.

### **1.8.2.1 Notice To Comply**

Wallsburg Town shall issue a written notice to comply regarding each such violation to the offending party, which written notice shall identify the offending party, identify the violation, set forth the time period afforded to the offending party to come into compliance with the Code and thereby avoid further enforcement proceedings. The Notice shall further set forth the date, time and location of an administrative hearing to be held regarding the same in the event that the offending party does not comply within the prescribed time period. For a first time offense, the applicable compliance period shall be thirty (30) calendar days from the date of the written notice to comply, unless said violation is a matter of urgent public health, safety and welfare, in such event the compliance period shall be ten (10) calendar days. If the offending party is unable to correct the offense within the allowed compliance period, the party may request an extension. The extension must be in writing and must be signed by all property owners, tenants, parties, with all signatures notarized. The request for extension shall contain the requested extension date, factual evidence as to why the extension is justified, and a commitment to correct the violation within the extension period. The extension may be granted by the ~~Zoning Enforcement Officer~~ (Wallsburg Town) at ~~his or her~~ (their) discretion. Written approval or denial of the extension will be given to the offending party. In the event that the ~~Zoning Enforcement Officer~~ (Wallsburg Town) does not grant the extension, ~~his or her~~ (their) may be appealed to the

~~administrative hearing officer.~~ In the event that a second notice to comply is issued to the same party with respect to a particular violation (or similar) within any rolling twelve (12) month period, the applicable compliance period shall be fifteen (15) calendar days from the date of the written notice to comply. In the event that a third notice to comply is issued to the same party with respect to a particular violation within any rolling twelve (12) month period, the applicable compliance period shall be the next calendar day after the date of the written notice to comply.

### **1.8.2.3 Administrative Hearing**

~~The administrative hearing shall be a public meeting, conducted by an administrative judge appointed by the Town (Wallsburg Town).~~ The offending party shall be given an opportunity to be heard at the administrative hearing, and shall otherwise be afforded due process. The administrative hearing shall be recorded or otherwise documented so that a true and correct transcript may be made of its proceedings. ~~The administrative judge (Wallsburg Town) shall make a final administrative determination with respect to the citation, which determination may be that there was no violation, or that a violation occurred and must be abated, and the amount of the appropriate civil penalty within the parameters set forth herein.~~

### **1.11 Permit Procedure Under This Code**

No building permit(s) shall be issued for any project without final approval. Proposals shall be reviewed according to either the Permitted Use Review under section 1.12 or the Conditional Use Review under section 1.14. Permitted Use application shall be reviewed by the ~~Town Planner~~ (Wallsburg Town Planning Commission) for approval. Conditional use applications shall be initially reviewed by the Planning Commission and final approval shall be granted by the Town Board. Subdivisions are subject to infrastructure review under section 1.13 and to the Subdivision Application Procedure and Approval Process set forth in section 6.11 et seq. Subdivisions shall be initially reviewed by the Planning Commission and final approval shall be granted by the Town Board. No planning review shall occur until all applicable planning application fees have been paid, and no final Town Board approval shall be effective until all other fees assessed by this Code or other ordinance, including applicable ~~Town Planner~~ (Wallsburg Town Planning Commission) review and engineering fees have been paid. Upon issuance of final approval under either review process, the plans are forwarded to the ~~Building Official~~ (Wallsburg Town) for building permit issuance under the provisions of the Uniform Building Code.

### **1.12 Permitted Use Review Process**

1. On any proposal to construct a building or other improvement(s) to property which is defined by this Code as a permitted use in the zone in which proposed, the ~~Town Staff~~ (Planning Commission) shall review the submission to determine whether the proposal:

1. Is a permitted use within the zone for which it is proposed.
2. Complies with the requirements of that zone for height, setback, and lot coverage.
3. Meets the applicable parking requirements.
4. Requires analysis as defined in Chapter 5.
5. Has met the requirements of the infrastructure review process as defined in Section 1.13.
6. Requires a ~~certificate from the technical review committee.~~ (any additional information as determined by the Planning Commission).

Upon finding that the proposal complies with the applicable zoning requirements, and can be adequately serviced by existing utility systems or lines, the plans shall be reviewed for Building Code compliance and permit issuance. If the submission does not comply with the requirements of the zone, the ~~Town Staff~~ (Planning Commission) shall notify the owner of the project or his agent stating the requirements of the zone that have not been satisfied.

#### **1.12.1. Application for Permitted Uses:**

~~The application for a building permit for a permitted use shall contain the following information, in addition to information required by the Uniform Building Code:~~

- ~~1. When a structure is to be built; the footing and foundation details, site plan, and elevations of all sides of the structure, and proof that all fees have been paid, prior to excavation.~~
- ~~2. A Site Plan Showing the lot and the location of the proposed structure. The site plan must be drawn to scale. A certified survey may be required on projects with structures on or near the lot lines, or when the lot lines are difficult to determine from existing plats and monuments.~~
- ~~3. A statement of the name and address of the owner or responsible agent, and a telephone~~

number.

4. ~~The location of the proposed structure by street address or by reference to existing structures so that the location can be identified and assigned a street address.~~

5. ~~A legal description of the property and proof of ownership.~~

6. ~~The location and size of adjacent utility lines.~~

7. ~~A letter or certification from the Army Corps of Engineers, stating that the property (which is not in an approved subdivision) is approved for construction and will not impact any wetlands. The letter must be directed to the Town Clerk and be lot specific.~~

8. ~~Whenever it comes to the attention of the Planning Commission, Town Board or Town Staff that the subject property is governed by recorded restrictive covenants or other recorded restrictions on the use of the property a letter of approval shall be required. Said letter shall come from the Home Owner's Association or Architectural Committee, or other appointed body or from a licensed attorney stating that it is the opinion of such attorney that the proposed improvements and/or use in not in violation of the applicable recorded restrictive covenants or other restrictions.~~

-Name, Email Address, Phone Number, Address of Owner or Responsible Agent

-Location Of Proposed Structure (parcel number or reference to existing structures, so the location can be identified and assigned a street address)

-Type Of Structure

-Building Plan Review and any associated Impact and System Enhancement Fees determined by the Town  
Lot, Parcel, or Existing Lot of Record Requirements:

-Legal description of the property and proof of ownership

-The minimum area of a buildable lot, or parcel ~~or existing lot of record~~ is 43,560 sq. ft. (1 acre). Density shall be calculated after the required easement and rights-of-way have been platted from the original acreage.

-Lots of record or parcels of land which legally existed or were created by a preliminary or final plat approval prior to the application of this code shall not be denied a building permit solely for reason of non-conformance with the parcel requirements of this code and are declared non-conforming.

-Designation of a lot of record is made by the Wallsburg Town Planning Commission and exists if the lot was a dedicated parcel and has not been reduced after August 11, 1965. It is the responsibility of the owner to document the status of the property.

-One dwelling may be placed on a lot, parcel, or existing lot of record.

-Accessory apartments are considered under conditional use as defined in this code section 5.2.3.2 (above a garage or in a basement, not a separate dwelling such as a mobile home or manufactured home, not to exceed 1,000 sq. ft., and not to exceed the size of the main dwelling in total living area.

Building Plan Requirements:

-Building plans that include footing and foundation details, site plan, and elevations of all sides of the structure.

-No lot, parcel, or existing lots of record in the residential zones shall have a building which exceeds a height of 30 feet, measured from natural grade, at any point.

-Site Plan showing the lot and location of the proposed structure, must be drawn to scale. A certified survey may be required on projects with structures on or near the lot lines or when lot lines are difficult to determine.

-Boundaries of the site, including any easements of record or known prescriptive easements, existing roads, fences, irrigation ditches, drainage facilities, and adjacent utility lines.

-Lot specific letter or certification from the Army Corps of Engineers, stating the property (which is not in an approved subdivision) is approved for construction and will not impact any wetlands.

Yard Setback Requirements: The following setback requirements shall apply on all lots, parcels, or existing lots of record.

-Front Yard and Side Street Setback: The minimum front yard and side street setback for all buildings shall be 30 feet from the property line or 60 feet from the centerline of the right-of-way, whichever is greater.

-Side Yard Setback: The minimum side yard for all buildings on interior lots shall be 12 feet.

-Rear Yard Setback: The minimum rear yard for all buildings on interior lots shall be 30 feet.

Accessory Building Setback Requirements

-An accessory building shall be located no closer than 3 feet from the side and rear property lines.

-Accessory buildings shall not be permitted in front or side street set backs required for main buildings.

-Roof drainage shall be required to be retained on site for all accessory buildings.

-Accessory buildings used for the housing or shelter of animals shall be located a minimum distance of 40 feet from any dwelling.

Projections Into Yards Requirements: The following structures may be erected on or projected into any yard.

- Fences and walls in conformance with this code.
- Landscape elements; including trees, shrubs, agricultural crops, and other plants.
- Necessary appurtenances for utility service.

Parking And Access Requirements:

- All streets must be constructed in such a manner that emergency service vehicles can operate properly upon them and to Wallsburg Town standard engineering specifications including required widths and right of way.
- Each residential dwelling is required to provide off-street parking for at least 2 automobiles.
- Proposed easements for new utility services or relocated utility services

Water Requirements:

- Proof via final order from the State Engineer changing the use of applicant's water rights to the municipal use and changing the point of diversion of the water rights to a Wallsburg Town well, in an amount sufficient to satisfy the requirements of the Town. Or tender sufficient funds to purchase those rights should Wallsburg Town have offered to sell water rights to the applicant.
- Location and size of nearest water main and sanitary lines to which the project can drain or be supplied
- Proposed connection to the system, where and how
- Estimated peak culinary water demands, including irrigation
- Proposed fire hydrant locations including verification for water demand and fire flows and access to hydrant(s)

Miscellaneous Requirements:

- Other Specific Information and scientific data and opinions which, in the opinion of the Town Staff, is necessary for the meaningful review of the project.
- This checklist is a summary of the requirements for a Wallsburg Town building permit. It is up to the applicant to review the Wallsburg Town Development Code. The recommendation for approval of a preliminary plan and construction plans shall be the subject of a public hearing before the Wallsburg Town Council. The Town Council may approve, approve with conditions, or disapprove the recommendation of the Planning Commission. If the Town Council approves or approves with conditions the recommendation of the Planning Commission, the applicant will be issued an approval letter from Wallsburg Town and the applicant may prepare a final building permit application containing all the requirements found herein and any requirements of the Town Council, Planning Commission, or Staff to the Wasatch County Building Department.

### **1.13.1 Infrastructure Review**

7. Developments which, in the opinion of the ~~Town~~ (Wasatch County) Engineer, may cause damage to, or shorten the useful life of the roadways in the community.

### **ADD/REPLACE IN DEFINITIONS:**

LOT OF RECORD: A lot or parcel that: a) legally existed as a lot or parcel developable as a detached single family dwelling, before its current land use or zoning designation; b) has been shown continuously to be an independently existing piece of property since its creation or since before enactment of zoning (August 11, 1965) ; c) has not decreased in size since its creation, except for lot line adjustments, as defined in Utah Code Annotated section 17-27a-103, as currently amended; and d) because of one or more subsequent land use ordinance changes does not conform with the minimum size, width, frontage, depth or other applicable dimensional requirements of the zone where the lot is located.

### **1.22.1 Non-Conforming Use Defined**

~~As used in this Code, a non-conformance use is the use of any building, structure, or land which is prohibited by any zoning, building, or other regulatory ordinances, but which was lawfully existing prior to the effective date of such ordinance. Residential uses and residential structures occupied for residential purposes or vacant at the time of adoption of these provisions shall be exempted from the provisions of this Code. This shall not be construed to allow~~

Purpose Of Non Conforming Use and Structures Provisions

The purpose of this chapter is to control and gradually eliminate those uses of land or structures, which although legal at the time of their establishment or erection, do not now conform to the land use regulations of the district within which they are situated. Such uses and structures shall be deemed nonconforming. Any structure or use which was a permitted use or

structure built prior to enactment of this title, but which is now designated by this title as a conditional use, shall not be considered a nonconforming use, and shall not be subject to the provisions of this chapter.

#### **1.22.4. Non-Conforming Use of Conforming Buildings**

~~The non-conforming use of any conforming building lawfully existing on the effective date of this Chapter may be continued provided such non-conforming use shall not be expanded or extended into any other portion of the conforming building nor shall any structural alterations except those required by law be made, and if such non-conforming use is discontinued for a continuous period of more than twenty four (24) months, any future use of such building shall conform to the provisions of the zone in which it is located.~~

~~A building or structure non-conforming as to use regulations shall not be added to or enlarged in any manner if the expansion involves any structural alteration of the building, except as allowed by a conditional use permit. Subject to the provisions of this code, the use of a building or structure may be expanded if the following standards are met:~~

- ~~1. The expansion of the use will not adversely impact the surrounding properties.~~
- ~~2. The proposed expansion is compatible with surroundings.~~
- ~~3. The site of the proposed expansion conforms to all site development requirements physically possible, given existing site limitations.~~
- ~~4. The proposed expansion shall not create new nonconformity.~~
- ~~5. No expansion of a non-conforming use will be allowed which would extend beyond the original lot or tract of land.~~

#### **Non Conforming Uses; Continuation and Abandonment**

A nonconforming use lawfully existing on the effective date of this title may be continued. A nonconforming use may be extended throughout the existing building, provided no structural alteration of the building is proposed or made for purposes of the extension. A person engaging in a nonconforming use may not expand the character of that use to include new or additional uses. If a nonconforming use is discontinued for a continuous period of more than twelve (12) months, any future use of such land shall conform to the provisions of the zone in which it is located.

#### **1.22.5. Non-Conforming Use of Non Conforming Buildings**

~~The non-conforming use of a non-conforming building lawfully existing on the effective date of this Code, with Town Board approval, may be continued for the period prescribed in this section, and may be expanded or extended throughout such building provided no structural alterations except those required by law are made therein. If no structural alterations are made or required, a non-conforming use of a non-conforming building may be changed to another use of the same or more restrictive classification. If such non-conforming use is discontinued for a continuous period of more than twenty four (24) months, any future use of the building shall conform to the provisions of this Code, the zone in which it is located and all other laws and ordinances of the Town.~~

#### **Non Conforming Structures**

A nonconforming structure may continue, provided no additions or enlargements are made thereto, no structural alterations are made therein that would increase the height or existing footprint of the building, and the current use does not change. This section shall not be construed to prohibit maintenance of an existing building.

A. Expansion and Enlargement Exception: An existing one-family dwelling which is nonconforming as to height, area, or yard regulations may be added to or enlarged if the addition or enlargement conforms with applicable requirements of this Title. Provided, however, that such a dwelling which is nonconforming as to side yard requirements but having a minimum side yard of not less than three (3) feet, may be extended along the nonconforming building line, in a manner that does not cause the structure to come any closer to the lot line at issue, to the extent of one-half (1/2) the length of the existing dwelling if such extension is for the purpose of enlarging and maintaining the existing dwelling unit in the structure, and provided such enlargement conforms to all other regulations of the zone in which the dwelling is located.

#### **1.22.6. Change in Status of Non-Conforming Use**

~~If a non-conforming use is vacated, it may be succeeded by an equally restrictive or more restrictive non-conforming use provided such change is effected within six (6) months. After a change to a more restrictive use is in effect that change shall be evidence that the less restrictive non-conforming use has been abandoned and thereupon loses any vested right as such, and the degree of non-conformity may not subsequently be increased by changing back to a less restrictive use.~~

#### **Change In Status of Non Conforming Use**

A nonconforming use may be replaced by an equally restrictive or more restrictive nonconforming use, subject to the approval of the planning staff. After a change to an equally or more restrictive use is in effect, the preexisting nonconforming use shall

be deemed vacated, abandoned and divested. The determination of whether a change is to a more or less restrictive use shall be made by the planning staff.

#### **1.22.7. Reconstruction of Non-Conforming Building Partially Destroyed**

~~A non conforming building destroyed to the extent of not more than fifty (50) percent of its reasonable replacement value at the time of its destruction by fire, explosion, or other casualty or act of God or public enemy, may be restored and the occupancy or use of such building or part thereof which existed at the time of such partial destruction may be continued subject to all of the provisions of this Code.~~

Reconstruction of Non Conforming Structure Partially Destroyed

A nonconforming building destroyed or partially destroyed by fire, explosion, casualty, or act of God or public enemy:

A. may be restored, unless:

1. the structure or use has been abandoned, or
  2. written notice is served with a notice complying with Utah Code 17-27a-510(3)(b)(i)(2018) as amended, and the structure has not been repaired or restored within six months;
- B. may not be enlarged, except as provided in Section 1.22.7 of this Title; and
- C. subject to all of the provisions of this Wasatch County land use and development code, the occupancy or use which existed at the time of such destruction may be continued.
- D. Deterioration due to age is not considered appropriate grounds to be permitted to retain a nonconforming status if it is rebuilt for that reason.

#### **1.22.8. Non-Conformance Limited to Zone Groups**

~~Notwithstanding any other provisions of this Code, no uses permitted in any one of the residential or agricultural zones and lawfully existing in any one of the residential or agricultural zones at the time of the effective date of this Code shall be considered non conforming in the zone in which it is located; no uses permitted in the commercial zone and lawfully existing in the commercial zone at the time of the effective date of this Code shall be considered non conforming in the zone in which it is located. This Section shall be applicable only to non conforming uses.~~

Non Conforming Use Of Open Land

A nonconforming use of land in residential, agricultural, commercial zone that is lawfully existing on the effective date of this title may be continued and shall not be considered non conforming, provided such nonconforming use shall not be expanded or extended into any other portion of open land, or into a conforming or nonconforming structure.

#### **ADD 1.22.9 Nonconforming Lot of Record Determination**

1. Determination By Wallsburg Town Planning Commission: The burden of proof for providing the information for determining a nonconforming lot of record rests upon the property owner or its representative. A nonconforming lot of record is determined by the county planner or designee by making findings that the lot or parcel meets the definition of "nonconforming lot of record" in Chapter 2 of this title, and the requirements of this section. Should such findings be made, a document shall be provided by Wallsburg Town stating that the lot is a nonconforming lot of record.
2. Documentation Required: At a minimum, the property owner must provide the planning department with the original deed and all subsequent deeds and other documentation necessary to meet the property owner's burden of proof.
3. Decrease In Lot Size: If a lot or parcel has decreased in size due to the use or threat of eminent domain, or because of a public dedication required by a governmental agency, the lot or parcel shall remain a nonconforming lot of record if it otherwise meets the definition of Chapter 2 of this title and the requirements of this section.

#### **ADD 1.22.10 Non Conforming Lots of Record Land Use Regulations**

Nonconforming lots of record are only exempt from the minimum size, width, frontage, depth or other applicable dimensional requirements of the zone where the lot is located. Before a building permit may be issued, nonconforming lots of record shall have access on a road built to county standards and shall comply with all other land use, zoning and development standards applicable to the particular zone the nonconforming lot of record is located in. A nonconforming lot of record determination does not guarantee a building permit.

A. Lot With Building: If a lot is unable to receive lot of record status and contains a building legally established on or before July 28, 1972, then the owner may continue the then existing use of such building and may expand the building in any way that does not increase the degree of nonconformity.

1. An increase in building size shall not be deemed to increase the degree of nonconformity of the lot unless the building increases any encroachment into a required setback of the lot coverage requirements of the underlying zone are exceeded by the increase.

2. Remodeling of a building within an existing footprint or expansion in compliance with this section shall not require a variance to lot requirements but shall be reviewed by the planning commission as though the lot conforms to the requirements of this title.

3. At least 75% of the framing and foundation of the original building must remain intact to continue the then existing use of the building, or to expand the building, unless the structure was involuntarily destroyed in whole or in part by fire or other calamity, and the owner reconstructs or restores the structure in conformity with the requirements of Utah Code 17-27a-510(3) (2018) as amended, and Wallsburg Town development code.

B. Uses Granted for Nonconforming Lots of Record: Lots that are determined to be nonconforming lots of record may be granted a building right for a single family dwelling, accessory residential units only if allowed in Chapter 5, and accessory uses as outlined in the underlying zone. So long as all other standards applicable to that use are complied with and so long as the use is permitted in the zone, nonconforming lots of record may also be considered utility uses and agricultural uses. The uses outlined in this paragraph and no others are granted for nonconforming lots of record.